

Challenging racism in the workplace

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Introduction

Challenging Racism in the Workplace is vital to UNISON's work – whether it involves bargaining and negotiating for members; growing our membership; challenging pay freezes, reorganisations and redundancies or organising our members around campaigns that matter most to them.

UNISON's Black members have many of the same concerns as any other member regarding access to employment, pay, and conditions of service, promotion and training. However, racist discrimination deepens the impact of labour market exploitation on Black workers. It is racism that prevents them from having equal access to good quality jobs and pay. Race discrimination manifests itself in the workplace most obviously through bullying and harassment as well as the over-concentration of Black workers in the lowest rungs of organisations and an over representation in disciplinarys, grievances and redundancies. These patterns of discrimination might not be immediately uncovered without appropriate information gathering, analysis and monitoring.

Dealing with discrimination is not just about supporting a worker who wishes to pursue their grievance through formal procedures. The root cause may lie in the actions of a manager or other workers, the culture of the workplace, unconscious bias, a particular policy or the failure to enforce an anti-racist strategy. All these issues could lead to racist behaviour not being adequately challenged and increase the risk that Black workers will continue to experience discrimination.

Equality legislation provides trade unions with the means to hold employers to account – but the principles of equality can only become a reality in our workplaces if we organise around them and place them on the bargaining table.

By promoting this work, UNISON aims to end the isolation faced by Black workers and to involve all members in fighting for fair workplaces. This guidance and its associated training course offer a range of resources, ideas and checklists for UNISON activists that allows for the incorporation of anti-racist work within branch campaigning, organising, recruiting and negotiating activity.

This publication is not meant to be exhaustive or comprehensive but is intended to provide ideas and support for this important work. Further updates, resources and information on Challenging Racism in the Workplace can be found on the UNISON website www.unison.org.uk.

What the law says

It is unlawful to discriminate in recruitment or employment on racial grounds. Racial grounds are defined as:

- **race or colour**
- **nationality (including citizenship)**
- **ethnic or national origins.**

Discrimination may be direct or indirect

- Direct race discrimination means treating a person less favourably on racial grounds. For example, by rejecting all job applications from non-British applicants, or by refusing to consider Bangladeshi people for a job.
- Indirect race discrimination occurs when an apparently non-discriminatory requirement, condition or practice that applies equally to everyone is actually harder for people from particular racial groups to satisfy and which cannot be justified in strictly business terms. For example, it could be indirect discrimination to ask for a high standard of English when the job does not require this.

Harassment

Harassment on the grounds of race or national or ethnic origin is a specific offence, while harassment on grounds of colour or nationality may amount to direct discrimination. Harassment is defined as “unwanted conduct that has the purpose or effect of violating a person’s dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person”.

Victimisation

It is unlawful to victimise a person because he or she has made, or supported, a complaint of racial discrimination or harassment. Instructing or inducing another person to discriminate is also unlawful, as is publishing an advertisement or notice that indicates an intention to discriminate.

Race relations legislation

The Race Relations Act (1976), as amended by the Race Relations Amendment Act (RRAA) in 2000 forms the legal foundation of protection from racial discrimination in employment. A crucial change in the law came with the RRAA which placed public authorities under a statutory duty to have ‘due regard’ to eliminating unlawful racial discrimination, and promoting equality of opportunity between different racial groups in carrying out their functions. This arose out of the tragic murder of Stephen Lawrence and the subsequent inquiry, which identified institutional racism as a serious issue in British society.

The Lawrence inquiry defined institutional racism as: “The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.”

This definition reflects a systematic racism that can be deliberate or indirect. It does not look at individual actions alone but has a focus on the outcomes of processes and practices to identify whether they are disadvantaging Black people and are therefore discriminatory.

The Equality Act 2010 harmonised existing discrimination law to create a single approach to achieving equality. The act makes it unlawful to discriminate on the basis of a ‘protected characteristic’. These are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief, sex and sexual orientation – and race.

Public authorities and the public sector equality duty

The Equality Act 2010 includes the public sector equality duty (PSED) that is made up of a ‘general duty’ that is supported by ‘specific duties’.

The general duty

The general duty is the same for England, Scotland and Wales. It puts a legal obligation on public authorities to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation

- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

The general duty also applies to organisations that deliver services on behalf of public authorities including private contractors and voluntary and community organisations.

Specific duties

Specific duties support authorities in their performance on the general duty by improving focus and transparency. The specific duties are different in England, Scotland and Wales.

In England the requirement is to:

- Publish information to demonstrate its compliance with the general equality duty
- Prepare and publish one or more objectives that need to be achieved to further any of the aims of the general duty

In Wales the specific duties cover a range of areas to ensure engagement from stakeholder groups, continual monitoring, transparency and accountability relating to equality plans. The requirement is to:

- Review equality monitoring information
- Prepare and publish equality objectives that cover each of the protected characteristics and pay differences and monitor progress
- Publish reasons why objectives have not been set if this is the case
- Involve stakeholders from protected groups in preparation and review of objectives, the strategic equality plan and equality impact assessments
- Equality impact assess policies, practices and activity
- Publish employment information and an annual report
- Review and provide identified staff training and ensure staff are trained on the public sector equality duty

Welsh Ministers also have a duty to publish a report on how authorities are meeting their general duty.

In Scotland the requirement is to:

- Report on mainstreaming the equality duty
- Publish equality outcomes and report on progress
- Equality impact assess and review policies and practices
- Gather and use employee information
- Publish gender pay gap information

- Publish statements on equal pay
- Consider award criteria and conditions in relation to public procurement

Similarly to Welsh Ministers, Scottish Ministers must publish a report outlining proposals for activity to better perform against the duty.

Due regard to the public sector equality duty ensures that equality considerations are built into the design of policies and delivery of services and that they are kept under review. The duty shifts the onus away from an individual having to seek redress after suffering discrimination, and onto public authorities being required to take a proactive and organised approach to tackling 'institutional discrimination' and focusing on organisational change.

While the law is a powerful tool for trade unions in tackling inequality it is only able to define what is unlawful it will not eliminate the damaging systemic labour market discrimination that Black workers experience. Equality legislation can only provide real change in workplaces if trade unions bring their collective bargaining power and use it as a lever and negotiating tool in discussions with employers.

Whatever changes occur within the legal framework around discrimination, UNISON activists should aim to negotiate above legal minimums. Activists can negotiate with employers for the publication of equality schemes, monitoring of employment practices and equality impact assessments as the most effective way for employers to prove that they are carrying out their legal duties under the public sector equality duty.

The information in this section gives general guidance only and should not be treated as a complete and authoritative statement of the law. For current information on the Equality Act 2010 and the Public sector equality duty visit the Equality and Human Rights Commission website www.equalityhumanrights.com

Why challenging racism matters to every branch

While tackling race discrimination is no easy task, the approach we take is no different to that of tackling any other workplace issue for members: speaking to members, identifying problems and issues that need to be tackled collectively, organising and campaigning around these concerns and negotiating with employers to resolve the problem.

Using Challenging Racism in the Workplace branches can:

Challenge inequality and develop the branch Black workers, just like other branch members, might be facing reorganisation and redundancies, increasing workloads and harassment. However, they might experience an unequal impact and be less likely to be promoted and more likely to be facing grievances, disciplinarys or redundancies. This kind of covert discrimination not only erodes the well-being of Black members, but may also prevent the growth and future strength of the branch.

Address deep rooted issues

In the current economic and political climate, UNISON needs to be strong, active and responsive – to all its members. Equality isn't just for the good times – it is more important than ever when times are tough. Black people continue to suffer disproportionately from public spending cuts, both as communities dependent on public services and as employees. Without an effective response to deeply rooted patterns of discrimination, many of our members, their families and communities are left vulnerable to blighted life chances and opportunities.

Protect all members, services and jobs

Just because a problem might only affect some members in the branch it does not stop it from presenting an organising opportunity that will engage the wider membership, recruit new members and develop new activists. The law in itself does not stop discrimination and cannot be relied upon on its own to achieve and protect equality at work. It does however provide a powerful tool for challenging budget cuts, redundancies and reductions in service provision.

Re-enforce the bargaining and negotiating position

Placing public authorities under a proactive duty to identify opportunities to promote equality and challenge racism needs a systemic and strategic approach. Integrating an organising strategy for Black members and a bargaining strategy for race equality within the work of the branch requires some careful planning but it means that challenging racism becomes an integral part of the branch's core work in protecting members.

Compliance with the PSED should result in better informed decision-making and policy development and better outcomes for everyone. UNISON reps therefore have a critical role to play in providing a valuable resource for employers to meet their statutory obligations.

To stop racism in the workplace from happening in the first instance we must see a shift from dealing with individual cases of race discrimination towards a collective approach. Challenging racism in the workplace is crucial for all of UNISON's work because no workplace where racism is allowed to flourish can ever be effectively organised.

Joint branch assessment

The joint branch assessment is designed to support the creation of strong, democratic and organised branches. It enables branches to conduct an appraisal of their work, prioritise issues, set targets and allocate necessary resources for their core work.

Work on race equality is a key target within the branch assessment process where branches are asked about promoting equality and representative democracy in the branch. Taking forward Challenging Racism in the Workplace will support branches when conducting their assessments. It will also enable activists to identify yearly

targets, put together an action plan and commit resources to ensure that effective work can be undertaken.

The role of self-organised groups

Black members' self-organised groups in UNISON have been at the forefront of campaigning for better rights for workers. Within self-organisation, Black workers organise around a common experience of prejudice and discrimination and look at ways of addressing this. Where branches have Black members but do not have a self-organised group, or the group has lapsed, the branch should establish one as a priority. Where branches have a Black members' self-organised group it should be involved in the process of looking at equality schemes and race equality objectives and any implications. The group should be engaged to help the branch campaign and organise around race equality. Where employers have to consult employees, UNISON branches should make the case that group members are given paid time off to meet and discuss the implications of any race equality initiatives.

Some employers may set up their own Black workers' group or forum to consult. Branches should work to ensure that where these forums exist that they do not act as the only form of consultation and therefore an act of minimal compliance that can be an attack on facility time and Black trade union representatives. These forums should not replace consultation with the trade unions however, if an employer's Black workers' group is the only forum available UNISON branches should ensure that the union's voice is heard through that group.

For support establishing a Black members self organised group branches should consult UNISON guidance 'Organising for equality' and visit the UNISON Black members pages on the website for further resources and contact details for regional and national Black members groups.

Community organising

Community organising is about people working together in their community whether that be a geographical neighbourhood, faith, cultural or ethnic group to further their shared interests just like unions do in workplaces. When putting together a campaign on issues within the workplace, the opportunity should be taken to build greater links within the wider community to support the

union's activities. Many of UNISON's Black members are active within their communities on a range of social justice issues. In campaigns around defending public services and fighting cuts in service provision, the needs of vulnerable communities should also be highlighted.

Race discrimination claims protocol

Challenging Racism in the Workplace is about addressing issues collectively. However, when representing members with race discrimination cases individually, it is important that branches refer these cases under UNISON's Race discrimination claims protocol.

Success levels in race discrimination cases continue to be amongst the lowest despite long established legislation. The Protocol was developed to improve the support the union provides to members suffering racism. It is an equalizing tool that aims to provide a more transparent, effective and accountable way of dealing with race discrimination cases in UNISON.

The Protocol further stipulates a role for Black members committees at a regional and national level to monitor cases and identify any reoccurring issues by employer or region so that collective issues and deep-rooted causes can be picked up.

For more information on UNISON's Race discrimination claims protocol visit the UNISON website.

Three important steps

UNISON branch representatives have an important role to play on behalf of members in preventing unlawful discrimination and in promoting equal opportunities and good race relations in the workplace.

Challenging racism in the workplace and negotiating solutions with management begins with the following three steps.

1. Gather information

A first step is to uncover any problems that may have been happening covertly. Uncovering discriminatory practices will then enable the branch to organise members around these practices and to address them at the bargaining table. Some common issues for Black workers are outlined in the section 'Issues for collective bargaining' in this guide on page 13.

Gathering information will not only enable branches to uncover discrimination but will also enable them to engage with Black members in the workplace. Talking to Black members through surveys, as individuals or by encouraging and raising their attendance at branch meetings will support the branch's wider activities. Other important sources of information include:

- current equal opportunities policy or the employer's equality scheme and knowledge of how it is working
- workplace monitoring data
- the branch equalities officer
- staff survey
- UNISON Black members' section on the website
- Freedom of information requests
- Labour force statistics
- Equality and Human Rights Commission (EHRC)

Once data and information has been gathered it will need to be evaluated. Branch activists do not have to be

experts in statistical analysis. A comparison between the demographic breakdown of the workforce and that of the community it serves would enable the branch to highlight disparities in recruitment. A look at where Black members are located within the hierarchy of the organisation could demonstrate longstanding issues with promotion and progression. A comparison between union membership and the race profile of the larger workforce could identify organising and recruitment opportunities. When evaluating data, activists should take into consideration the quality and format of data as well as trends and patterns over a number of years.

It will take some careful planning and evaluation to prioritise an issue suitable for a campaign within the workplace or as the basis for negotiating with an employer. The issues raised might need to be integrated into the existing work of the branch relating to redundancies, re-organisations or staff terms and conditions.

2. Develop a branch action plan

When all this information is gathered it will need to be evaluated and the following questions considered:

- what are the major issues to be tackled?
- what are the possible solutions?
- what needs to be done to get support for the solutions from the majority of branch members?
- is there a need for a workplace campaign?
- what is likely to be the reaction from management to raising the issues identified?
- what are possible responses from branch members?
- who should be involved?
- What is the timeline?
- What additional support and resources are needed?
- How will the branch recruit and organise around the issue?
- How will you keep members involved and how will feedback on progress be given?

Branches will do well to set up a team to lead on this work. If branches are unable to establish a Challenging Racism in the Workplace team, they will need to incorporate this work within the existing branch structures in order to ensure that issues for Black members form part of the central work of the union.

Resources for developing a branch action plan

There are a number of resources that the branch can draw upon in forming an effective action plan to take this work forward. Valuable resource for branches that can equip activists with ideas, tips, best practice and the confidence to integrate race equality into the negotiating and bargaining work of the branch include The Challenging Racism in the Workplace training course and a UNISON guide to Effective Campaigning.

Activists might also find UNISON's branch development and organising toolkit helpful.

3. Talk to management

When negotiating around race equality issues with management you will need to:

- be clear about the problems you are raising
- be clear about what you are trying to achieve
- identify the most appropriate forums to raise items and have them addressed
- put forward positive solutions
- include Black members on the negotiating team
- ensure that all members are aware of the outcome of discussions
- consider adding standing agenda items on equality plan updates to the agenda for the joint negotiating forum

UNISON branch representatives need to be aware of how negotiated benefits may affect some groups less favourably and avoid this. This means ensuring that formal or informal agreements that are reached with management do not disadvantage Black workers. To ensure that this does not happen, branches should consider who loses in any claims that are put forward or agreements that are being proposed.

If the branch has set up a Challenging Racism in the Workplace team, it should include a mix of experience and must certainly include branch leaders who currently negotiate with management and can take a lead on this work must certainly be included. This is also an opportunity to develop Black reps to take on senior branch positions.

Pressing employers to take an approach to achieving race equality that focuses on outcomes (rather than a tick-box process to achieve compliance) will enable reps to play a stronger negotiating role and produce genuine

change within the workplace. Reps will also want to ensure that chief executives, board members and senior managers are not only committed to this work but are seen to be so on a consistent and ongoing basis.

UNISON branches should also seek active engagement with other recognised trade unions in the workplace, as well as those people who can influence the agenda, such as school/college governors, elected members within councils and members on NHS trust boards.

Does your employer have an equality scheme and have race equality objectives been set?

Race equality objectives can be stand-alone or contribute to a wider equality scheme. They should be set based on evidence and aim to address identified patterns of discrimination that disadvantage Black workers.

Whilst an equality scheme is a starting point it is important to remember that paper statements of intent alone are not enough. Branches should seek to be involved in the formulation of these objectives or schemes to ensure that the issues of discrimination affecting members are reflected; that adequate resources are allocated for implementation; that there are clear lines of management responsibility for ensuring compliance, that there is a timeline and that there is a monitoring mechanism to assess whether the policy is achieving its objectives.

☒ Race equality objectives checklist

Within the branch:

- ☐ Have branch activists attended UNISON training so that they can negotiate on race?
- ☐ Can a relevant branch campaign around race equality issues be developed?
- ☐ Have you set up a Black self-organised group to support the branch in negotiating and organising?
- ☐ Have you got different involvement mechanisms in place, such as online forums, Black staff groups, self-organised trade union groups and action groups? Have you informed Black staff about why you want them to be involved?
- ☐ Is there a mechanism to feedback to staff so they can see the impact their involvement has had?
- ☐ Have you reported any agreements to UNISON's Bargaining Information System (BIS)?

With the employer:

- ☐ How are the objectives set to work right across the whole organisation?
- ☐ How do policy statements and or objectives translate into practical workplace arrangements?
- ☐ Does everyone understand how any strategy will affect them?
- ☐ What are the arrangements for training staff on the public sector equality duty?
- ☐ Is somebody leading on implementing the policy, and have resources been allocated to cover the cost of putting it into operation?

The purpose of monitoring people's ethnic backgrounds is to:

- identify possible patterns of inequality
- investigate underlying causes
- remove any unfairness or disadvantage.

An employer cannot claim to be committed to equality of opportunity if it does not first effectively undertake equality monitoring however extensive policies or initiatives are.

If monitoring is carried out in the strictest confidence and the reasons for undertaking it are made transparent to all staff, it can also send a clear message to workers and jobseekers that the organisation is serious about equal opportunities. Monitoring is a means to an end and UNISON branches should be clear about how managers intend to use the information to make improvements for staff.

Where monitoring is not being carried out it is important to establish this process with management. Where there are large amounts of missing ethnicity data, branches should seek to work jointly with employers to encourage staff to update their information – a joint statement could be issued advising how the information will be used.

Does your employer undertake monitoring of workers by ethnicity?

Monitoring is a process of collecting, analysing and evaluating information. Information can be collected in several ways, including questionnaires, surveys, consultations and general feedback. Public authorities are obliged to monitor employment practice and procedure by ethnic group, including staff in post and applications for employment, training and promotion.

Case law has made clear that public authorities should ensure that they have enough relevant information to hand about equality issues to make informed choices and decisions, and to ensure this is fully considered before and at the time decisions are taken.

☒ Monitoring checklist

Within the branch:

- ☐ Has the branch been consulted on any proposed monitoring arrangements?
- ☐ How will information be shared with the branch?

With the employer:

- ☐ What information is collected and how is it reported?
- ☐ How will the information be stored and who will have access to this?
- ☐ How will information be published?
- ☐ If monitoring is being conducted what does the data reveal?
- ☐ Does the ethnicity of the workforce reflect the local population? Is this reflected at all levels within the organisation?
- ☐ Does monitoring extend to all employment processes, for example applications for promotion, transfer and training as well as success rate for each; grievance and disciplinary action including results; termination of contract?
- ☐ If monitoring revealed any disproportionate results for Black workers has any further work been undertaken to establish the reasons for this?
- ☐ Have any targets been set as a result of monitoring? How will targets be monitored? How will this feed into the objective setting process?

Does your employer conduct equality impact assessments?

In the current economic and political climate, where public services are being threatened with unprecedented cuts, Equality Impact Assessments are more vital than ever before. It is highly likely that cuts will fall most heavily on those who are most vulnerable. Any proposed action by a public authority, including restructuring, redundancies and cuts should be subject to an Equality Impact Assessment.

The Equality Impact Assessments process has proved a useful tool for UNISON branches. They aim to ensure that no group is disadvantaged on the grounds of an authority's decisions. The process allows for the impact of any action to be equality assessed and reviewed on the basis of how effective this action will be in promoting equality of opportunity. Where a negative impact or

missed opportunity to promote equality is identified, a public authority must give due regard to modifying that policy or practice.

For example, if a council makes a policy decision to privatise a service, from a race perspective it must carry out an impact assessment to determine what consequences, if any, the move will have on different racial groups and if negative impacts are found the council will need to seek to mitigate this and consider their decision. Branches should ask public sector employers for copies of the equality impact assessments on any proposed actions, especially cuts and further, seek to be involved from the start of the process.

In Scotland and Wales the specific duties put a requirement on authorities to assess the impact of decisions and activities on protected groups and to identify where they can promote equality of opportunity. Further in Wales relevant stakeholders must be engaged and authorities must publish these assessments where they show substantial impact on any group.

In England, the equality duty does not set out a particular process for equality impact assessments. There is however still a requirement for authorities to have due regard to the aims of the general equality duty when making decisions and setting policies. Authorities must further understand the potential impact of their decisions on people with different protected characteristics and to identify potential mitigating steps to reduce or remove adverse impacts.

☒ Equality impact assessment checklist

- ☐ What is the policy for equality impact assessing decisions?
- ☐ Does the assessment have sufficient evidence?
- ☐ Where applicable have all the statutory requirements been met?
- ☐ What methods has the authority used to gather evidence?
- ☐ Have relevant groups been engaged?

Issues for collective bargaining

Race equality issues are not separate issues that are negotiated by specialists. They should be an aspect of all the agreements that are negotiated for members in the workplace by UNISON representatives.

Breaking down data can reveal institutional trends and patterns and expose the culture of the organisation or certain departments. Patterns of discrimination that are revealed can be used to confirm anecdotal evidence and support the branch's arguments when negotiating with employers.

A more detailed look at some of the issues that might come up are outlined in the following section which also lists the kind of questions activists should be asking when looking at this data. Some or all of the issues that are detailed in this guidance may be a problem for Black workers in workplaces and will form part of mainstream policies, procedures or agreements that branches have been or will be consulted on.

It is not an exhaustive list but it can provide a starting point to enable branches to develop an agenda that best represents bargaining goals.

Recruitment and selection

Black workers are still being discriminated against in the recruitment process. You may find that the racial profile of your workplace is unrepresentative of your local area or that particular Black groups are over-represented in certain lower grade roles.

An example of race discrimination occurring at the recruitment stage can be seen in research carried out by the Department for Work and Pensions in 2009, where 3,000 job applications were sent out under false identities to discover whether employers were discriminating against job seekers with recognisable Asian and African names. The research found that on average, an applicant who appeared to be white would send nine applications before receiving a positive response, whereas candidates with a traditional Asian or African name with the same qualifications and experience had to send sixteen applications.

☒ Recruitment and selection checklist

- ☐ Does the composition of the workforce reflect the local population and if not is any monitoring being carried out to determine whether Black people are applying for job vacancies?
- ☐ Where are job vacancies advertised? Are any steps being taken to ensure job advertisements are reaching underrepresented groups?
- ☐ Is a standard job application form used for all recruitment?
- ☐ Are job descriptions and selection criteria made clear to all potential applicants?
- ☐ What training is provided to staff involved in the recruitment and selection process? Does this include training on the equal opportunities policy and how it is applied to recruitment?
- ☐ Are recruitment and selection procedures consistent with the EHRC code of practice in employment?
- ☐ Are selection panels diverse?

Training

A TUC report into training for employees found that white workers are more likely to be offered training than their Black colleagues. Simultaneously, data from the Labour Force Survey reveals the importance of trade unions in negotiating a greater provision of training for workers when compared to workers who are simply consulted on in this matter. In workplaces where training is negotiated by a union, almost 40% of employers organise an average of five or more training days a year, but in those workplaces where it is only subject to consultation, less than 25% match this figure. As a UNISON branch rep might find that Black staff are more likely to work in particular occupations – frequently at grades below their potential – in which case are there training provisions for these posts? You may also find that Black staff are more likely to work unsociable hours – in which case are there provisions to make training programmes accessible?

☒ Training checklist

- ☐ Is there a training and development delivery plan?
- ☐ How are training opportunities advertised to staff?
- ☐ Are training opportunities available to staff at all levels?
- ☐ Are there any disparities in the take-up of training opportunities based on ethnicity?
- ☐ Have the barriers to signing up for training courses been identified?
- ☐ What steps have been taken to encourage greater take up of training opportunities?

Promotions and acting up

As previously mentioned, Black workers tend to be over-represented at lower job grades. In many cases, this is despite having the necessary qualifications and skills to work at a higher level. The National Health Services is England's largest employer of Black workers however research in 2015 showed Black staff are still treated less favourably in promotion and career progression. Leadership positions in the NHS both executive and non-executive are still disproportionately white and often unrepresentative of the local populations served by NHS Trusts.

Opportunities to 'act up' are often created informally and are therefore not accessible to all suitably qualified workers. A Manchester tribunal ruled that an employer who promoted an employee to a newly created post without advertising the vacancy, with the result that no-one was given the opportunity to apply, had unlawfully discriminated against a Black employee who would have applied for the post if they had known about it.

☒ Promotions and acting-up checklist

- ☐ Is there a specific policy or scheme for career progression?
- ☐ How are promotions or acting-up opportunities advertised?
- ☐ Are all workers eligible to apply for any promotion or acting-up opportunities? If not, what reasons are given for limiting access to these?
- ☐ Is there evidence to show that the employer has followed standard recruitment procedures for promotions? Are job descriptions and person specifications available for the job and are applications assessed against this?
- ☐ Do applicants who wish to apply for promotion or acting up opportunities complete a standard application form?
- ☐ Are interviews held before making an appointment?
- ☐ Are you aware of Black workers applying for promotions but consistently being turned down?

Short-term, temporary, zero hours and agency work

Research by the government in 2008 found that agency workers were disproportionately likely to be Black and more than twice as likely as white workers to be in agency work. The number of Black employees doing agency jobs increased by nearly two-fifths (38%) between 2011 and 2014, compared to a 16% rise for white workers.

Agency staff and temporary workers are among those with the least rights, lowest pay and are most susceptible to redundancy. These workers are unlikely to get access to training or staff development and as a consequence are not likely to progress in the workforce.

A TUC report looking at the impact of casualised work on Black workers revealed that between 2011 and 2014 the number of African, Caribbean and Asian workers stuck in temporary work because they couldn't find a permanent job increased by 20%, while for white workers it fell by 8%.

☒ Short-term, temporary and agency work checklist

- ☐ Is there trade union agreement on the employment of temporary contract and agency staff?
- ☐ Is there a policy or criteria for the use of temporary and agency staff?
- ☐ What proportion of the workforce is employed on a temporary contract or through an agency?
- ☐ Does equality monitoring extend to staff on temporary contracts or agency work?
- ☐ Why are such workers not given permanent contracts?
Are there instances where jobs of a similar role or grade are undertaken by staff on permanent contracts?
- ☐ Are there instances where temporary contracts are automatically renewed? Is this applied fairly and consistently across the organisation?
- ☐ Are exit interviews conducted with temporary or short-term staff? If so, what happens to this information?

Pay and working conditions

Research by the government in 2010 found that Black people were less likely to be in employment than white people. The same research also confirmed that most groups of Black workers experienced significant ethnic pay gaps including 21% for Bangladeshi men and over 30% for Pakistani and Chinese women. This gap may partly be attributed to Black workers being disproportionately represented in low-paid jobs. However, informal policies and practices in the workplace can also exclude Black workers from overtime opportunities, bonuses and other forms of performance-related pay.

A 2016 TUC report showed Black workers face a large pay gap that widens as they achieve more qualifications. Staff from all Black backgrounds faced a 10% pay deficit at degree level, rising to 17% for those with A-levels alone.

UNISON's own research published in 2016 looked at the employment of Black workers in local government and community school in England and Wales. The research showed that in community school employment in all regions except the West Midlands, Black workers are more likely to be in the lowest pay range earning less than £15,207 a year.

In 2015 London local authority Camden Council became the first local authority in the UK to independently analyse the pay gap in the workforce by gender, disability and ethnicity. Further, they have now committed to publish the data every year.

☒ Pay and working conditions checklist

- ☐ Has a pay audit looking at pay by ethnicity been conducted? Does this reveal any significant pay gaps between different ethnic groups?
- ☐ What does monitoring data reveal? Are Black workers mainly employed in low-paid jobs?
- ☐ Is there a strategy to achieve Black representation at all levels of the workplace?
- ☐ How are opportunities for overtime made available to staff?
- ☐ Are there procedures or agreements to ensure the fair distribution of overtime working and allocation of work for bonuses? Are such procedures followed?
- ☐ Are exit interviews held with departing staff? How is this information analysed and used?

Performance assessment

One danger of performance assessments in any job is that they can easily turn into assessments of the person, based on unconscious assumptions about their ability as a member of a particular racial group or gender, or as a disabled person, which can be discriminatory.

For example, a Black worker successfully demonstrated discrimination when she received the following comment in her annual appraisal: “Kamla does not speak good English so she can’t understand instructions she is given by her supervisor.” In fact Kamla’s work rate was better than average and her level of spoken English did not affect her understanding of instructions or ability to do the job.

☒ Performance assessment checklist

- ☐ Is there a performance assessment scheme? Has this been race equality impact-proofed?
- ☐ Do managers and staff receive training on race equality in performance assessments?
- ☐ How often do assessments take place? Are they measured against an agreed job plan based on the worker’s job description?
- ☐ What criteria are used for measuring performance? Are the objectives measurable? Do they refer to specific tasks and achievements?
- ☐ Do workers have the opportunity to comment on and discuss the annual assessment report?
- ☐ Do assessments affect pay?
- ☐ Is there monitoring of outcomes by ethnicity?

Disciplinary action

In 2001, Nottingham City Council identified that Black workers were disproportionately subject to disciplinary action. It commissioned a research study from the Institute for Employment Studies to understand why this was. The report concluded that managers were using some procedures inappropriately to deal with situations and that this racially biased action led to Black staff being discriminated against.

A report by the Royal College of Midwives has showed Black midwives in London make up a disproportionate number of those facing disciplinary proceedings. The figures showed that while Black midwives make up 32% of the workforce in London, they accounted for 60% of those facing disciplinary proceedings in the 12 months to June 2011. The same report also found harsher penalties for Black workers during the same time period.

When unnecessary or unfair, disciplinary action undermines the confidence of Black workers in the workplace and affects their chances of career progression. It is often an indicator of poor management and supervision in the workplace.

☒ Disciplinary action checklist

- ☐ Is disciplinary action being monitored by ethnicity, and if so, what does the monitoring reveal?
- ☐ Are Black workers being disproportionately subjected to disciplinary action?
- ☐ Is disciplinary action being used as a way of resolving issues of competence?
- ☐ Do Black workers feel that they have little communication with management and are given little or no supervision and guidance?
- ☐ Are standards of conduct and performance clear and precise and known by staff?
- ☐ Is your employer precise about what is required of managers in managing poor performances and what responsibilities they have to provide ongoing supervision?
- ☐ Are managers trained in dealing with disciplinary procedures?

Redundancies

Within the current political climate, large-scale redundancies have turned into a critical issue for UNISON activists as they prepare to organise, campaign and negotiate to save members' jobs and defend public services across the country. The discrimination faced by Black workers within the workplace also leaves them particularly at risk when redundancies are made.

UNISON's own research looking at the impact of redundancies on Black workers in local government showed in councils across England that Black workers were more likely to be made redundant. In one local authority in London Black women constituted just 5% of the workforce but 23% of redundancies.

It is vital that equality is at the heart of UNISON's strategy to defend public services. Equality also gives the union an important tool in campaigns against redundancies. Any proposals to make staff redundant or to cut services must be equality impact assessed.

UNISON has produced a range of resources to support branches as they protect members and build local campaigns against cuts that can be found on the UNISON website.

☒ Redundancies checklist

- ☐ Has the employer explored alternatives to redundancies?
- ☐ Has the organisation's redundancy procedure been followed?
- ☐ Has the employer given appropriate notice and undertaken meaningful individual and collective consultation?
- ☐ Is the selection criteria transparent and fair?
- ☐ Has an equality impact assessment been carried out?
- ☐ Which service users will be affected by the cuts? Will the Black community or any other protected group be particularly disadvantaged?
- ☐ Are Black workers being disproportionately affected by reorganisation and proposed redundancies?
- ☐ Have alternative options been compared and considered to minimise any discrimination?
- ☐ Do all affected workers have genuinely equal opportunities to retrain or for redeployment?

